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Appl. No. 10/797,294
Amdt. Dated March 2, 2007
Reply to Office Action of February 6, 2007

...REMARKS/ARGUMENTS...

The Official Action of February 6, 2007 has been thoroughly studied. Accordingly, the following remarks are believed to be sufficient to place the application into condition for allowance.

By the present amendment independent claim 1 has been changed to recite a "latch mechanism" rather than a "latch." Upon review, the undersigned concluded that identifying element 22 as a latch may have been somewhat misdescriptive, since element 22 is only a part of the latching mechanism that becomes trapped when the head restraint support is locked in a desired position.

Independent claim 1 has further been changed to recite that the latch mechanism includes a moveable member that can be selectively moved independently of the head restraint support between a latched position in which a portion of the head restraint support is locked against pivotal movement and an unlatched position in which the portion of the head restraint support can pivot over the moveable member of the latch mechanism.

Support for this limitation can be readily found in Figs. 3-7.

Independent claim 11 has also been changed to recite a "latch mechanism" and to further recite that the latch mechanism including a cam that can be selectively moved independently of the first head restraint support between a latched position in which a portion of the head restraint support is locked against pivotal movement and an unlatched position in which the portion of the head restraint support can pivot over the cam.

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The remaining claims have been amended to be commensurate with the changes made to the independent claims or otherwise to better conform to the requirements of 35 U.S.C. §112 and conventional claim language.

Entry of the changes to the claims is respectfully requested.

Claims 1-32 are pending in this application.

Claims 6-10 were rejected under 35 U.S.C. §112, second paragraph as being indefinite. Under this rejection the Examiner noted that the phrase "the primary latch" lacked proper antecedent basis in the claims.

In response to this rejection the claims have been amended to avoid antecedent basis problems.

Claims 1-8 and 11-18 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,612,653 to Takata.

Claims 9-10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Takata.

On page 4 of the Office Action the Examiner has objected to claims 19-32 as being dependent upon a rejected base claim, but has otherwise indicated that claims 19-32 would be allowable if rewritten in independent form.

For the reasons set forth below, it is submitted that all of the pending claims are allowable over the prior art of record and therefore, each of the outstanding prior art rejections should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

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The Examiner has relied upon Takata as showing:

...the use of a head restraint support (R) for a foldable head restraint, the head restraint support capable of holding a bun (HR), comprising a latch (20) integral with the head restraint and the latch capable of locking the head restraint support in a design position (Fig. 1). The head restraint has a rotational hole (see Figs. 4-5) for receiving a rotational shaft (16), the head restraint support pivoting about the rotational shaft. The head restraint is further comprised of metal substrate (26) for holding the bun, where the metal substrate is enclosed at least partially by an over-molded geometry (see Fig. 1), which is generally cylindrical. The head restraint support has a stabilizer hole for receiving a stabilizer rod (28) and the primary latch has a first latch surface (22) for engaging with a first stop (14b) and a second latch surface (24) for engagement with a first cam surface (14a). Regarding claims 11-18, Takata shows the use of a first and second head restraint (20) a bracket (10) and a cam (14) with a primary latch (22, 32). A rotational bar (16) extends between the first and second head restraint supports along with a stabilizer bar (28). A first stop pin (12) is attached to the bracket whereby the latch has a first surface engageable with the stop pin to prohibit motion of the head restraint support and the primary latch has a second surface (24) that engages the cam.

As the Examiner will note, Takata provides a retracting mechanism that rotates headrest frames 26 and 28 about bearing rod 16. The range of rotation is limited by stops which are provided on "stopper plate 14" along which stopper pieces 22 rotate with the headrest frames 26 and 28 about bearing rod 16. The stopper pieces 22 are fixed, e.g., welded on side plate 20 to rotate with the headrest frames 26 and 28 about bearing rod 16.

The stopper plates 14 are secured to the bearing arm of each bracket 10 through a connecting pin 12. The longitudinal axis of the bearing rod 16 is offset laterally from the common axis aligned with the connecting pins 12. This offset allows the side frames 20 and the upper and lower headrest frames 26 and 28 to be toggled to the use position or the retracted position. In this regard, coil

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springs 32 attached between side frames 20 and connecting pins 12 provide a resistance to rotation when the headrest is in the use position shown in Figs. 1 and 4.

As taught by Takata at column 4, lines 43-57:

When the headrest HR is pivoted counterclockwise about the bearing rod 16 against the coil springs 32 in readiness for the headrest HR to be accommodated neatly within the recess 4 by the application of an external pushing or pulling force acting in a forward direction confronting the position of the head of the seat occupant, and as the headrest HR passes over a top dead center position, the headrest HR can be quickly toggled over the top dead center position and then folded into the recess 4 by the action of the coil springs 32. The dead center position referred to above is defined at a location on one side of the bearing rod 16 opposite to the common axis aligned with the connecting pins 12, at which the coil springs 32 are axially outwardly expanded to accumulate respective energies necessary to toggle the headrest HR in the manner described above.

Takata teaches toggling the headrest assembly to either of the use and retracted positions. This toggling ability relies upon the offset between the axis of the bearing rod 16 and the common axis aligned with the connecting pins 12 together with the spring tension which creates a "top dead center" which Takata refers to at column 4, lines 47-57:

as the headrest HR passes over a top dead center position, the headrest HR can be quickly toggled over the top dead center position and then folded into the recess 4 by the action of the coil springs 32. The dead center position referred to above is defined at a location on one side of the bearing rod 16 opposite to the common axis aligned with the connecting pins 12, at which the coil springs 32 are axially outwardly expanded to accumulate respective energies necessary to toggle the headrest HR in the manner described above.

Applicant's independent claims 1 and 11 each require that the latch mechanism includes a

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moveable member (or cam in claim 11) that can be selectively moved "independently" of the head restraint support.

Takata does not teach a structure that provides this "independent" moving function.

Moreover, such a function is completely contrary to the "togglng" feature of Takata.

In Takata, in order to move the headrest from the use position shown in Fig. 1 to the retracted position shown in Fig. 5 one forcefully rotates the headrest so that the stopper pieces 22 rotate the stopper plates 14 downward (clockwise in Fig. 6) against the spring tension to allow the headrest to be rotated out of the use position.

There is no provision for selectively moving the stopper plates independently from the stopper pieces 22 in Takata.

Therefore, applicant's claimed invention structurally and functionally distinguishes over Takata.

Moreover, it is noted that applicant's invention provides a much safer retractable headrest than that of Takata, since in the case of Takata an unexpected or inadvertent force applied to the back of the headrest can easily cause the headrest to pivot forward, without protecting and even possibly harming an occupant sitting in a seat to which the headrest is coupled.

In contrast, because of the latching mechanism, applicant's headrest can withstand forces applied to the back of the headrests since the latching mechanism is not designed to be released by such forces.

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It is therefore submitted that applicant's invention, in effect, addresses and solves a problem that is associated with Takata. A determination of patentability requires consideration of problems associated with the prior art that an applicant's invention addresses and solves and even more so to problems which an applicant has identified with the prior art which the prior art is unaware of.

Based upon the above distinctions between Takata and the present invention, and the overall teachings of Takata, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon Takata as required under 35 U.S.C. §102 as anticipating applicant's claimed invention.

Moreover the Examiner cannot rely upon Takata under 35 U.S.C. §103 to establish a *prima facie* case of obviousness of applicants' claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejection of the claims should hence be withdrawn.

Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

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If upon consideration of the above, the Examiner should feel that there remains outstanding issues in the present application that could be resolved, the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,



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